



UNITED STATES DEPARTMENT OF COMMERCE  
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Washington, D.C. 20231

#9

April 24, 1998

Mr. Richard J. Macor  
2151 New Village Road  
Stewartsville, NJ 08886

Dear Mr. Macor,

Thank you for your letter dated March 9, 1998 regarding application serial number 08/646,954. The prosecution history of this application as described by you certainly merits my attention.

As an experienced inventor, I'm sure that you understand that questions of patentability of pending claims in light of prior art and the interpretation of claim language are technically not within the jurisdiction of the Group Director as a matter of petition or supervisory review. These questions are properly appealable. As in any other legal matter, reasonable minds may differ in the interpretation of the facts and the applicability of the law, and it is not appropriate for a Group Director to substitute her judgement for that of the examiner. While you categorize a possible appeal as being "unwarranted", I am sure that you recognize that the appeal process is the only avenue through which many of the issues that you have raised can be properly addressed. That an applicant may sometimes prevail in an appeal should not lead to the characterization of the appeal as having been "unwarranted", or unnecessary, or to the characterization of the examiner's actions as having been improper in the sense of abusive or arbitrary.

Let me assure you, however, that I recognize that there is a potential for an examiner to be so far "off base" in the manner of conducting prosecution in an application, that supervisory intervention is warranted. I have reviewed the file in your application, and would not place the prosecution in this case within that category. I am troubled by your inability to contact Ms. Danganan and with your perception of her as being disinterested in assisting you. Both Ms. Danganan and Ms. Meislin have reputations as being competent examiners who are customer oriented. I have spoken with them and am convinced that the lack of communication was not intentional on the part of either.

In the future, if you encounter problems with unreturned messages or communications in general with respect to any pending patent application within Groups 3710 or 3720, I invite you to contact Mr. Stephen Marcus, the Special Program Examiner for those Groups at (703) 308-3872. In the event that he is unavailable, please feel free to call me directly at (703) 308-1078.

Again, I want to thank you for bringing this matter to my attention. I encourage you

to continue to bring problems such as these to the attention of PTO managers. Unless we are made aware that these problems exist, there is no way that we can improve our customer service. I speak for all PTO managers in assuring you that we intend to cure any and all problems with the services that we provide as quickly as we can after the problems are brought to our attention.

Sincerely,

A handwritten signature in cursive script, appearing to read "E. Rollins-Cross".

E. Rollins-Cross, Director, Patent  
Examining Groups 3710 and 3720